



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572

(202) 692-5000

In the Matter of the

REPRESENTATION OF
EMPLOYEES

of

NATIONAL RAILROAD
PASSENGER CORPORATION
(AMTRAK)

Special Investigators

35 NMB No. 60

FILE NO. CR-6936

DISMISSAL-
INSUFFICIENT
SHOWING OF
INTEREST

July 10, 2008

The services of the National Mediation Board (Board) were invoked by the Fraternal Order of Police-NJ Council, Inc. (FOP or Organization) on May 28, 2008, to investigate and determine who may represent for the purposes of the Railway Labor Act* (RLA), as provided by Section 2, Ninth, thereof, personnel described as "Special Investigators," employees of National Railroad Passenger Corporation (AMTRAK) (Carrier). The FOP is the certified representative of the craft or class of Police Officers Below the Rank of Captain. *Nat'l R.R. Passenger Corp. (AMTRAK)*, 31 NMB 91 (2003). The FOP seeks a determination from the Board that the Special Investigators are part of the existing craft or class that has been certified by the Board.

The Board assigned Investigator Eileen M. Hennessey to investigate.

FINDINGS

In the instant case, the FOP asks the Board to find that the Special Investigators are covered by the existing certification. In other words, the FOP seeks a Board determination that the Special Investigators are an accretion to the craft or class of Police Officers Below the Rank of Captain of which the FOP is the certified representative. See *e.g., United Air Lines, Inc.*, 32 NMB 75

* 45 U.S.C. § 151, *et seq.*

(2004); *AirTran Airways, Inc.*, 31 NMB 45 (2003); *Frontier Airlines, Inc.*, 29 NMB 28 (2001); *Ross Aviation, Inc.*, 22 NMB 89 (1994).

While the Board bases its accretion determinations upon work-related community of interest, the Board requires all applications in representation matters, including accretion applications, to be supported by a showing of interest. See e.g., *United Parcel Serv. Co.*, 33 NMB 307 (2006). Any determination on the merits of an application not supported by a showing of interest would be an advisory opinion. The Board's longstanding policy is to decline ruling on the merits of such requests. See generally, *Dobbs Int'l Servs., Inc. d/b/a Gate Gourmet*, 34 NMB 60, 64 (2006); *Petroleum Helicopters, Inc.*, 32 NMB 179, 185 fn. 3 (2005); *Air Florida, Inc.*, 8 NMB 587 (1981).

The investigation in this case established that the Organization failed to support its application with the required number of authorizations from employees in the craft or class as set forth in Part 1206.2(b) of the Board's Rules. Accordingly, the Board finds no basis to address the merits of the participants' positions. See e.g., *United Parcel Serv. Co.*, 23 NMB 110 (1996); *Nat'l R.R. Passenger Corp.*, 21 NMB 301 (1994).

Therefore, the Board finds no basis upon which to proceed in this matter and hereby dismisses the application and closes its file in this matter.

By direction of the NATIONAL MEDIATION BOARD.

A handwritten signature in cursive script that reads "Mary L. Johnson".

Mary L. Johnson
General Counsel